

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DANIEL CERNA, SR.,

Defendant.

8:18CR269

TRIAL ORDER

The defendant's oral motion to cancel the plea hearing set for December 8, 2020 and set this case for trial, Filing No. 61, is granted.

1. **TRIAL DATE**

Trial in this matter is set on **January 5, 2021** at **8:30 a.m.** in Courtroom No. 3, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska 68102. Because this is a criminal case, the defendant(s) must be present in person.

2. **PRETRIAL MOTIONS**

A. **Pretrial Motions Generally:**

All pretrial motions must follow the deadlines and procedure set forth in NECrimR 12.3.

B. **Continuance:**

Motions to continue trial must be submitted in accordance with the requirements of NECrimR 12.1. Motions to continue trial are referred to the magistrate judge for decision. The motion shall state that the defendant was advised by the defense attorney of the reasons for seeking a continuance.

C. **Evidentiary Hearings:**

Please notify my chambers immediately of any pretrial motion requiring an evidentiary hearing outside the presence of the jury. If a party requests a hearing that takes place in advance of trial, the request must follow the requirements of NECrimR 12.3(b)(4).

3. **PRETRIAL SUBMISSIONS**

A. At least seven (7) days before the first day scheduled for trial, counsel for the government shall electronically file the following documents with the Clerk of the Court by government's counsel:

- i. Trial brief
- ii. Witness list
- iii. Exhibit list
- iv. Proposed jury instructions and verdict form(s)

In addition to electronically filing the documents, a copy of the government's jury instructions, verdict form(s), witness list, and exhibit list shall be e-mailed as attachments in Word format to the chambers at the following address: bataillon@ned.uscourts.gov.

B. The defendant is encouraged to submit proposed jury instructions, a verdict form(s), a witness list, and an exhibit list to the judge's chambers as well via email at bataillon@ned.uscourts.gov. The materials submitted by the defendant(s) shall not be disclosed to the government unless the defendant specifies otherwise.

4. **DISCOVERY MATERIAL**

A. **Depositions:**

Proponent: The proponent of a deposition to be used at trial shall deliver a copy of the deposition to the judge's chambers and to opposing counsel at least seven days before trial. If less than the entire deposition will be offered, the proponent shall deliver: (1) a list or index designating by page and line(s) the testimony to be offered, and (2) a copy of the entire deposition with highlighted parts to be offered.

Objections: A list or index of objections to another party's designated deposition testimony shall be delivered to the judge's chambers before trial and shall identify by page and line the location of the objection and shall identify the precise nature of the objection.

B. **Videotaped Depositions:**

Proponent: Videotaped depositions shall be delivered to the judge's chambers and to opposing counsel as stated in the previous paragraph. The proponent shall provide a transcript with the prospective testimony indexed and highlighted as stated in the previous paragraph.

Objections: A list or index of objections to another party's designated videotaped testimony shall be delivered to the judge's chambers as stated in paragraph 3.A. The Court may require editing of the video tape in response to pretrial rulings on objections.

5. EXHIBITS

A. Court's Copies:

Each proponent of exhibits shall prepare a three-ring binder containing a copy of each exhibit to be offered. The binder shall be organized by dividers and tabs for quick retrieval of an exhibit during trial, and shall be delivered to chambers no later than five days before the scheduled date of trial.

B. Original Exhibits:

Exhibits shall be properly listed and identified on the exhibit form supplied by the Clerk of Court's Office, also available at the court website: www.ned.uscourts.gov/local/local.html.

C. Marking of Exhibits:

Exhibits must be numbered in accordance with NECrimR 12.7. Specifically, all exhibits must be pre-marked with stickers that indicate whether the government or the defendant is offering the exhibit. The government's exhibits will begin with number "1." Defendant's exhibits will begin with the three-digit number rounded to the next hundred after the government's last exhibit.

6. WITNESS LIST

A party's witness list shall include the full name and address for each such witness. Witnesses who do not appear to testify when scheduled will be considered withdrawn. To avoid redaction issues, witnesses should be instructed not to give their exact addresses during trial.

7. REQUESTS FOR INTERPRETERS OR COURTROOM EQUIPMENT

Requests for the services of a court interpreter should follow the deadlines set forth in NECrimR 28.2. Please notify the courtroom deputy at least fourteen days in advance of the first scheduled day of trial if the services of an interpreter will be required for the trial.

Please notify the courtroom deputy before trial if you plan to use the evidence presentation equipment and if you need to schedule a time for training or practice with the equipment. More information is available on the web at <https://www.ned.uscourts.gov/attorney/courtroom-technology>.

8. CONDUCT AT TRIAL

Trial will commence at 9:00 a.m. each day, unless otherwise ordered. The Court will conduct a general voir dire examination. Counsel may supplement, but not repeat, the Court's voir dire examination. Any suggested questions for voir dire by the Court shall be delivered to the judge's chambers prior to commencement of trial. The Court may impose a time limit on counsels' voir dire. Examination of witnesses will be by direct, cross, and redirect examination. There will be no recross unless authorized by the Court.

9. PLEA

It is the responsibility of the counsel for all parties to notify the Court immediately of any change of plea. By noon on the Friday before trial is scheduled to occur, counsel for all parties shall contact the judge's chambers to receive instructions regarding how to contact the Court when the Court is not open for business.

SO ORDERED.

Dated this 1st day of December, 2020.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge